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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,852	12/29/2004	Daisuke Takeda	3883.022	7012
30448 7590 05/19/2008 AKERMAN SENTERFITT P.O. BOX 3188 WEST PALM BEACH, FL 33402-3188				
EXAMINER				
HOEY, ALISSA L				
ART UNIT		PAPER NUMBER		
3765				
MAIL DATE		DELIVERY MODE		
05/19/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/519,852

Applicant(s)

TAKEDA ET AL.

Examiner

Alissa L. Hoey

Art Unit

3765

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 6 and 7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 6 and 7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. This is in response to amendment received on 02/25/08. Claim 1 has been amended. Claims 1, 2, 6 and 7 are examined below.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Frand et al. (US 3,457,739).

In regard to claim I, Frand et al. teaches a sock (12), comprising:

a toe section (end portion near 14, figure 4) for covering toes, said toe section being knitted into a flat tubular shape (figure 2), said

toe section including a sole section covering the a bottom part of the toes and an instep section covering a top part of the toes, said sole section have a first end at a tip of the toes and a second end root of the toes,

a bulge section formed in a middle part in a length-direction of said sole section between said first end and said second end of said toe section, and

The bulge section is capable of being formed by the knitting location being held fixed the knitting needles are then gradually decreased and thereafter they are gradually increased. The bulge section is formed such that it has an arc shape that protrudes

vertically downward when the sock is not worn (figures 1 and 2 see bulge section near 14).

4. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Getaz (US 2,821,847).

In regard to claim I, Getaz teaches a sock (18), comprising:

a toe section for covering toes, said toe section being knitted into a fiat tubular shape, said

toe section including a sole section covering the bottom part of the toes and an instep section covering a top part of the toes, said sole section have a first end at a tip of the toes and a second end root of the toes (see figures 1 and 2).

a bulge section (17, 20, 22 and 11) formed in a middle part in a ~~length direction~~ of said sole section between said first end and said second end of said toe section, and

The bulge section is capable of being formed by the knitting location being held fixed the knitting needles are then gradually decreased and thereafter they are gradually increased. The bulge section is formed such that it has an arc shape that protrudes vertically downward when the sock is not worn (see figures 1 and 2).

5. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Bounous et al. (US 3,905,212).

In regard to claim I, Bounous et al. teaches a sock (11), comprising:

a toe section (14) for covering toes, said toe section being knitted into a fiat tubular shape (figures 1 and 2), said

toe section (14) including a sole section covering the bottom part of the toes and an

instep section covering a top part of the toes, said sole section have a first end at a tip of the toes and a second end root of the toes (see figures 1 and 2),

a bulge section formed in a middle part in a ~~length direction~~ of said sole section between said first end and said second end of said toe section, and

The bulge section is capable of being formed by the knitting location being held fixed the knitting needles are then gradually decreased and thereafter they are gradually increased. The bulge section is formed such that it has an arc shape that protrudes vertically downward when the sock is not worn (see figures 1 and 2, identifiers 15, 20),

In regard to claim 2, Bounous et al. teaches the sock of claim 1, wherein said bulge section is formed such that it gradually becomes thinner from a side of a large toe toward a side of a little toe (see figure 5, toe portion and bulge section decreases in size).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bounous et al. in view of Craighead (US 1,308,483).

Bounous et al. teaches a sock with buldge as described in claim 1. However, Bounous et al. fails to teach the toe sections having multiple stalls for the user's toes.

In regard to claim 6, Craighead teaches a sock with a toe section is formed such that it is divided into a first insert section into which a large toe is inserted, and a second insert section into which other toes are inserted, and bulge sections are formed in both the first Insert section and second insert section (figures 1 and 2).

In regard to claim 7, Craighead teaches a sock with a toe section is formed such that it is divided into five insert sections for each individual toes, and bulge sections are formed for each of the five insert sections (figures 1 and 2).

It would have been obvious to have provided the sock with buldge of Bounous et al. with the multiple toe stalls of Craighead, since the sock with buldge of Bounous et al. provided with multiple toe stalls would provide for enveloping of the individual toes to prevent direct contact of the toes, and thereby obviate corns and other troubles incident to perspiration and rubbing action.

Response to Arguments

8. Applicant's arguments filed 02/25/08 have been fully considered but they are not persuasive. com

I) Applicant argues that Frand fails to teach a completed hose with a bulge section formed in a middle part of the sole section between the first and secodn end of the toe section.

Examiner notes that the claim dose not require that the hose has to be completed. The blank as shown in figures 1 and 2 is being intrepreted as the hose garmetrn with a sole section havign a bulge formed in the middle part between the first and secodn toe section (see figures 1 and 2, bulge section after stitching line 14 is

being considered the toe section and the bulge is located in the middle of the front section).

II) Applicant argues that Getaz fails to teach a completed hose with a bulge section formed in a middle part of the sole section between the first and second end of the toe section.

Examiner notes that the claim does not require that the hose has to be completed. The blank as shown in figure 1 is being interpreted as the hose garment with a sole section having a bulge formed in the middle part between the first and second toe section (see figure 1).

III) Applicant argues that Bounous fails to teach a bulge section.

Examiner notes that the toe portion of the sock has a bulge section formed by the opening of 20. A bulge is defined as a hump, protuberance and/or a rounded projection. The portion 20 in toe section 14 forms a hump, protuberance and/or a rounded projection.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (571) 272-4985. The examiner can normally be reached on M-F (8:00-5:30)Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on (571) 272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ALH

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/Alissa L. Hoey/
Primary Examiner, Art Unit 3765